


FILED  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

2008 SEP -8 AM 10:07  
 UNITED STATES OF AMERICA,

CLERK U.S. DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA  
 Plaintiff,

BY  DEPUTY  
 V.

Oscar CARMONA-Garcia

A.K.A. Oscar Garcia

Defendant

) Magistrate Docket No.

'08 MJ 2748

) COMPLAINT FOR VIOLATION OF:

) Title 8, U.S.C., Section 1326

) Deported Alien Found in the

The undersigned complainant, being duly sworn, states:

**Count One**

On or about **September 3, 2008**, within the Southern District of California, defendant, **Oscar CARMONA-Garcia, A.K.A. Oscar Garcia**, an alien, who previously had been excluded, deported or removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

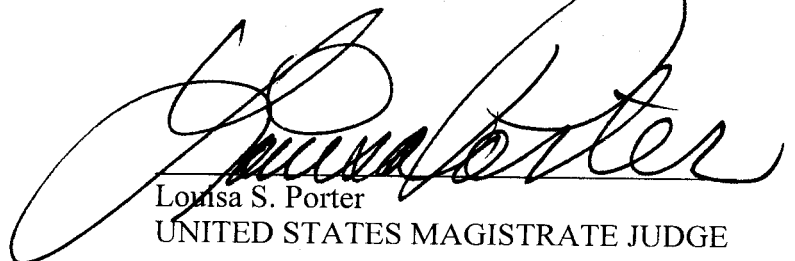


SIGNATURE OF COMPLAINANT

John R. Wallace

Supervisory Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 8th DAY OF SEPTEMBER, 2008.

  
 Louisa S. Porter  
 UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:****Oscar CARMONA-Garcia****A.K.A. Oscar Garcia****PROBABLE CAUSE STATEMENT**

On September 3, 2008 at approximately 12:30 p.m., I, Supervisory Border Patrol Agent (SBPA) J. Wallace, was advised by SBPA W. McBride that SBPA's L. Snyder and R. Torres were enroute to a meet with Chula Vista Police at 181 East Orange Avenue in Chula Vista, California. Agents Snyder and Torres were requested by the police.

I responded to the location and met Agents Snyder and Torres at apartment G4. Agent Snyder advised me that the case officer was upstairs. I met with Chula Vista Police Officer M. McKaig (ID#576).

Officer McKaig stated that on September 2, 2008, Chula Vista Police Officer Formhals had responded to the AM-PM at 1400 Hilltop in Chula Vista, California for a report of an assault with a deadly weapon, a gun. Officer Formhals met the victim who stated that someone known to him as the son of a former employee, later positively identified as Oscar CARMONA-Garcia (A.K.A. Carlos Garcia) hereinafter referred to as the defendant, had pointed a handgun at the victim, and said "I'm going to kill you!" Officer Formhals stated that the victim had run away and that the defendant had left prior to the arrival of police.

On September 3, 2008, Officer McKaig arrived at the front of the apartment complex located at 181 East Orange Ave. Officer McKaig observed the victim from the prior day's incident detaining the defendant for police. The victim had recognized the defendant and confronted him saying, "Where is the gun now motherfucker?" The victim then punched the defendant and held him on the ground while bystanders called 911. Officer McKaig arrived on scene and detained the defendant.

During the course of his investigation Officer McKaig learned that the defendant had been previously convicted of a felony in California and had been deported. Officer McKaig requested Border Patrol to respond to place an immigration detainer on the defendant.

Official record checks indicate that the defendant is a citizen and national of Mexico, illegally present in the United States. On November 26, 2006, the defendant was ordered removed by immigration officers from the United States to Mexico. This order was subsequently executed on January 15, 2008. No evidence could be found in official records indicating that the defendant had ever asked for permission to enter the United States from the Attorney General or the Secretary of Homeland Security. The defendant has been previously convicted of a felony.

I placed an immigration detainer on the defendant with Officer McKaig to include in his booking paperwork for the defendant. The defendant was booked into county jail for multiple felonies. The fingerprints and photograph submitted during booking correspond to those in the defendant's official immigration record.

Based on the foregoing there is probable cause to believe that **Oscar CARMONA-Garcia A.K.A. Oscar Garcia**, has illegally re-entered the United States after deportation in violation of Title 8 of the United States Code, § 1326, deported alien found in the United States.